

AMENDED IN SENATE JUNE 11, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 19**

**Introduced by Assembly Members Florez and Ashburn**  
(Principal coauthor: Senator Costa)

May 17, 2001

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An act to amend Section 377 of the Public Utilities Code, relating to electric power, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 19, as amended, Florez. Facilities: electric power.

**Existing**

(1) *Existing* law requires the Public Utilities Commission to regulate facilities for the generation of electricity owned by any public utility prior to January 1, 1997, until the owner of those facilities has applied to the commission to dispose of those facilities and has been authorized by the commission to undertake that disposal. Existing law prohibits any facility for the generation of electricity owned by a public utility to be disposed of prior to January 1, 2006.

This bill would exempt from that prohibition any public utility-owned facility for the generation of electricity that has not been operated for at least 10 years and that has not had a permit to generate electricity for at least 5 years. It also would require that any *exempt* facility ~~exempt from this prohibition shall~~ *disposed of* to be sold subject to the requirement that the entity purchasing the facility shall enter into contracts to sell power generated by the facility to the Department of

Water Resources or to a public utility subject to the jurisdiction of the commission at rates established on a cost-of-service basis.

(2) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*

3     (a) *On January 17, 2001, Governor Davis proclaimed a State*  
4 *of Emergency to exist within the State of California, due to the*  
5 *shortage of electricity.*

6     (b) *California's electricity shortage has resulted in electrical*  
7 *power outages for California residents, and critical services,*  
8 *including schools, transportation facilities, businesses, and*  
9 *agriculture.*

10    (c) *These power outages threaten the health and safety of*  
11 *California residents, critical services, and vital segments of*  
12 *California's economy.*

13    (d) *One or more powerplants exist in California that have not*  
14 *been operated for at least 10 years and have not had permits to*  
15 *generate electricity for at least five years.*

16    (e) *The prohibition against the sale of generation assets was*  
17 *not intended to apply to nonoperational facilities.*

18    SEC. 2. Section 377 of the Public Utilities Code is amended  
19 to read:

20    377. (a) The commission shall continue to regulate the  
21 facilities for the generation of electricity owned by any public  
22 utility prior to January 1, 1997, that are subject to commission  
23 regulation until the owner of those facilities has applied to the  
24 commission to dispose of those facilities and has been authorized  
25 by the commission under Section 851 to undertake that disposal.  
26 ~~Notwithstanding any other provision of law, no facility for the~~  
27 ~~generation of electricity owned by a public utility may be disposed~~  
28 ~~of prior to January 1, 2006.~~ The commission shall ensure that  
29 public utility generation assets remain dedicated to service for the  
30 benefit of California ratepayers.

(b) ~~This section~~ *Notwithstanding any other provision of law, no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006. This subdivision does not apply to the disposition of any public utility-owned facility for the generation of electricity that has not been operated for at least 10 years and that has not had a permit to generate electricity for at least five years.*

(1) Any facility ~~to which this subdivision applies~~ *disposed of pursuant to this subdivision* shall be sold subject to the requirement that the entity purchasing the facility shall enter into contracts to sell power generated by the facility to the Department of Water Resources or to a public utility subject to the jurisdiction of the commission at rates established on a cost-of-service basis.

(2) Any contract to sell power required by paragraph (1), including all rates and costs contained therein, shall be subject to approval by the commission.

*SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to permit certain nonoperational power plants in California to be sold to entities that would make new power available by contract to the Department of Water Resources or a public utility subject to the jurisdiction of the Public Utilities Commission as soon as possible, thereby preserving the public peace, health, and safety, it is necessary for this act to take effect immediately.*